

MEMORANDUM

September 22, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: GEORGE E. PETERSON, ESQ.
Peterson & Bradford

OWEN L. GALLAGHER
Principal Deputy County Counsel
Litigation Cost Management Division

RE: Lizbeth Quintero, a minor, by and through her Guardian Ad Litem,
Cecilia Herrera, Cecilia Herrera and Jose Quintero
Los Angeles Superior Court, North Valley District Case No. PC033989

DATE OF
INCIDENT: April 25, 2003

AUTHORITY \$1,600,000, Plus Assumption of the Medi-Cal Lien Not To Exceed
REQUESTED: \$58,725.23

COUNTY
DEPARTMENT: DEPARTMENT OF HEALTH SERVICES

CLAIMS BOARD ACTION:

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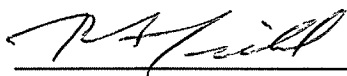
Approve

☐

Disapprove

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Recommend to Board of
Supervisors for Approval



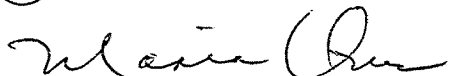
ROCKY ARMFIELD

, Chief Administrative Office



JOHN F. KRATTLI

, County Counsel



MARIA M. OMS

, Auditor-Controller

on October 3, 2005

SUMMARY

This is a recommendation to settle for \$1,600,000 the medical negligence lawsuit brought by Lizbeth Quintero for the injuries she sustained during her birth at Olive View/UCLA Medical Center on April 26, 2003. The State, having paid \$58,725.23 for the provision of Medi-Cal care, has a claim for reimbursement, which will be settled by the County. Both the mother, Cecilia Herrera, and the father, Jose Quintero, have a separate cause of action for emotional distress, which are also being resolved by this settlement.

LEGAL PRINCIPLE

The County is liable for the failure of its hospital and medical staff to provide services consistent with the appropriate standard of care for the circumstances encountered.

SUMMARY OF FACTS

On April 24, 2003, Cecilia Herrera, a 23-year-old woman, pregnant with her first child, and at 40 and 2/7 weeks gestation, was admitted to Olive View/UCLA Medical Center for the process of inducing labor through the administration of medication (Pitocin). Mrs. Herrera was placed on an external fetal monitor to follow her contractions and the condition of the fetus.

On April 25, 2003, at 11:24 p.m., Mrs. Herrera began pushing. At 11:30 p.m., medical personnel determined that the external fetal monitor was intermittently losing contact with the fetal heartbeat. Although it was noted that the external monitor might not be reporting accurate information concerning the condition of the fetus, medical personnel did not consider the placement of a fetal scalp electrode on the head of the fetus, to more accurately monitor the condition of the fetus.

On April 26, 2003, shortly after midnight, nursing personnel were concerned that the external fetal monitor was recording Mrs. Herrera's heart rate, rather than the heart rate of the fetus. At about 12:17 a.m., medical personnel placed a fetal scalp electrode on the infant's head. The fetal scalp electrode indicated a severe slowing of the fetal heartrate (bradycardia), a sign that the fetus was in distress due to oxygen deprivation (hypoxia). At 12:25 a.m., Mrs. Herrera was taken to the operating room for performance of an immediate Cesarean section delivery.

At 12:31 a.m., Mrs. Herrera gave birth, by Cesarean section delivery, to Lizbeth Quintero, a female infant weighing 3,350 grams (7 lbs. 6 oz.). At the time of delivery, it was noted that Lizbeth was limp, blue, and not breathing. A breathing tube was inserted through her mouth, past the voice box to the breathing passages of the lungs (endotracheal intubation) to ensure continued normal

breathing (respiration), and she was resuscitated. Lizbeth was then transferred to the Neonatal Intensive Care Unit (NICU). An analysis of blood drawn at 1:10 a.m., indicated a high level of acid in her blood (metabolic acidosis), which is evidence that she was exposed to extremely low levels of oxygen, resulting in severe brain damage (hypoxic encephalopathy)

On April 28, 2003, Lizbeth was transferred to Cedars-Sinai Hospital (private facility) for further treatment and management of her condition. On May 29, 2003, she was discharged.

Lizbeth currently suffers from a defect of motor power and coordination related to damage of the brain (cerebral palsy), and profound mental retardation. She is not expected to speak or walk independently, which medical experts attribute to hypoxic encephalopathy occurring on April 26, 2003.

DAMAGES

If this matter proceeds to trial, the claimants will likely seek the following:

Lizbeth Quintero,	
Future Medical and Life Care	\$13,333,000
Past Medical Care	\$ 213,579
Loss of Future Earnings	\$ 657,811
Pain and Suffering (MICRA limit)	\$ 250,000
Cecilia Herrera,	
Pain and Suffering (MICRA limit)	\$ 250,000
Jose Quintero,	
Pain and Suffering (MICRA limit)	\$ <u>250,000</u>
TOTAL	\$14,954,390

The proposed settlement includes:

Lizbeth Quintero,	
Cash Settlement	\$ 987,500
Cecilia Herrera,	
Cash Settlement	\$ 106,250
Jose Quintero,	
Cash Settlement	\$ 106,250
Attorney's Fees (MICRA Estimate)	\$ 375,000
Costs of Litigation	\$ <u>25,000</u>
TOTAL	\$1,600,000

A portion of the recommended settlement may be directed by claimants to purchase an annuity. The amount and structure of the annuity have not been selected at this time.

STATUS OF CASE

Expenses incurred by the County in the defense of this case through August 18, 2005, are attorney's fees of \$77,425 and \$53,148 in costs.

The total cost to the County, as a result of this settlement, is as follows:

Indemnity (Settlement Amount)	\$1,600,000.00
County Attorney's Fees and Costs	\$ 130,573.00
Medi-Cal Lien	\$ <u>58,725.23</u>
TOTAL	\$1,789,298.23

EVALUATION

Medical experts will be critical of the failure of medical personnel to consider the placement of a fetal scalp electrode on April 25, 2003, at 11:30 p.m., to more accurately monitor the condition of Lizbeth Quintero. This failure resulted in a missed opportunity to make an earlier evaluation and diagnosis of the declining condition of the fetus, and is directly responsible for the results observed here.

We join with our private counsel, Peterson & Bradford, and our claims administrator, Octagon Risk Services, Inc., in recommending settlement in the amount of \$1,600,000, and payment of the Medi-Cal lien in the amount of \$58,725.23.

The Department of Health Services concurs in this settlement.